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MINOR RESTORATION

Personalities

The Assassination of Abraham Lincoln

James A. Mudd

Excerpts from newspapers and other
sources

From the files of the
Lincoln Financial Foundation Collection

whose walk-on parts in the Lincoln drama would otherwise deny the reader a sense of their independent reality.

Besides the biographical articles, there is a rich assortment of subject articles, many of them enlivened with contemporary cartoons, drawings, and photographs. They include large themes such as Colonization, Conscription, Negroes, Slavery, Reconstruction, Economics, and Railroads, each focussing sharply on Lincoln's thought and action. There are more concrete political issues such as the Missouri Compromise, the Fugitive Slave Act, and *Dred Scott v. Sandford*. There are important episodes such as the Altoona Conference, the Hampton Roads Conference, and the Elections of 1860 and 1864. There are localities such as Washington, D.C., the Executive Mansion, Coles County, Illinois, and the towns in which Lincoln debated Douglas. Lincoln's notable legal cases, letters, speeches, and state papers are analyzed and discussed in separate articles. His personal traits and ideas are covered in such articles as Humor, Religion, Music, Physical Characteristics, and Psychology. Complementing the sketches of biographers and collectors are articles on notable Lincoln libraries and museums (with current addresses), on Lincoln Fellowships, and on other latter-day marks of remembrance such as Postage Stamps and the Lincoln Highway.

All this suggests the book's plan and range, but it does not touch on the quality of its execution. Not the least remarkable fact about the work is that, with all allowance for comment and criticism by other Lincoln experts on sundry articles in manuscript, the whole was written by one man. If it departs from the encyclopedia model, it is in its consequent unity of outlook and personal style. The writing is clear and concise, as it should be in an encyclopedia, but it is also vigorous, thoughtful, and unafraid to express opinions. James G. Randall's *Lincoln the President*, for example, is "easily the finest biography of Lincoln ever written" (p. 27), whereas Carl Sandburg's *Lincoln Collector*, on the Oliver Barrett collection of Lincolniana, is "rambling and diffuse" (p. 20). Neely's encyclopedia, in short, speaks with the voice of a man, not the monotone of a computer.

But if it is clearly Mark Neely who speaks in this book, it is also clear that he knows whereof he speaks. Almost every article concludes with a succinct, judiciously selective, and thoroughly up-to-date critical bibliography, supporting the article's statements and guiding the reader to further information. On numerous occasions Neely has used primary sources, such as the Lincoln Papers in the Library of Congress or manuscripts in other libraries, and these are fully identified. The texts of the articles are as up-to-date as the bibliographies. The most substantial and original recent contribution to the study of Lincoln, G.S. Boritt's *Lincoln and the Economics of the American Dream* (1978), is, for example, not only evaluated in the article on Biographers but is also drawn upon (with full credit) in such articles as Banking, Economics, Railroads, Republican Party, Tariff, and Whig Party.

It should be evident by now that anyone interested in Abraham Lincoln will find *The Abraham Lincoln Encyclopedia* not only unique but also indispensable, whether his interest is new or longstanding. The newcomer to that endlessly fascinating study may profitably begin with the compact yet lively and illuminating article on Biographers. The longtime Lincolnian may sample an article and find his memory refreshed, his interest rekindled, his impressions sharpened, and his knowledge of the literature made current. Even those familiar with all the facts in a given article will profit from the precision, balance, coherence, and discrimination with which they are presented.

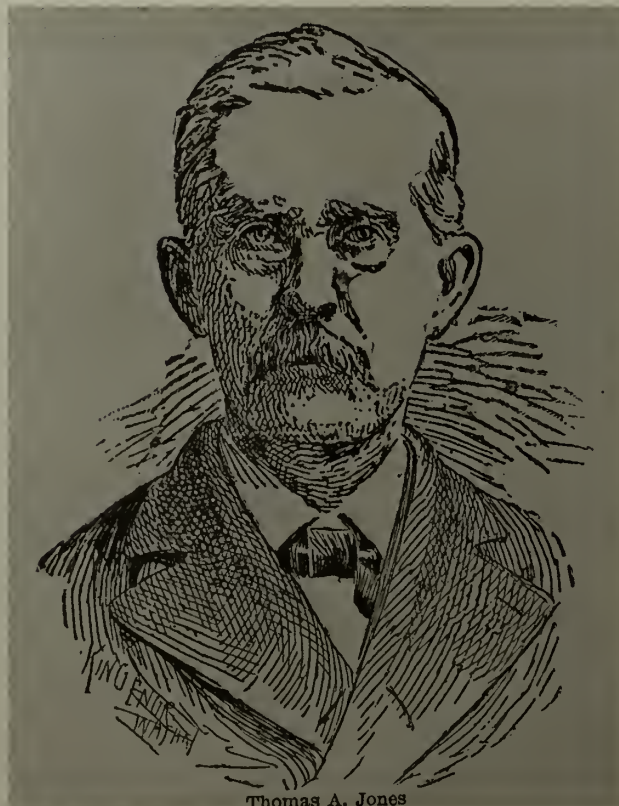
I have only one caution for the reader, whether he be a beginner or an old hand. As is said to be the case with fanciers of peanuts, those who consult this encyclopedia will find it difficult to stop with just one article. They will thus run a grave risk of missing appointments, putting off chores, or staying up too late at night. On the other hand, unlike the case of goober gobblers, it will be their minds, not their waistlines, that will expand.

Some New Light on Thomas A. Jones and a Mysterious Man Named Mudd

Thomas A. Jones, the man who helped John Wilkes Booth escape, lived to tell about it in his famous little book, *J. Wilkes Booth: An Account of His Sojourn in Southern Maryland after the Assassination of Abraham Lincoln, his Passage Across the Potomac, and his Death in Virginia* (Chicago: Laird & Lee, 1893). As traitors' reminiscences go, it is an engaging and appealing work. Jones readily admitted his part as an accessory after the fact of Booth's crime and described with surprising candor his role as a Confederate "mail" agent in southern Maryland.

Jones told the story of his arrest early in the war for disloyal activities and his release several months later on swearing the oath of allegiance to the Union. A detachment of General Daniel E. Sickles's brigade arrested him near Pope's Creek in Maryland on orders issued from Colonel R.B. Marcy on October 4, 1861. Soldiers took him to the Thirteenth Street Prison in Washington, D.C. E.J. Allen, a Federal agent working for General Andrew Porter, Provost Marshal in Washington, had received information that Jones regularly used his boat to ferry contraband goods and men who wished to join the Confederate army across the Potomac to Virginia.

The official record of Jones's arrest contains some interesting information which he had forgotten later and at least one enticing detail of which he may never have been aware. Jones had heard he was to be arrested and fled for a time to Virginia. Union soldiers searched his house in his absence and found several incriminating letters. One was from the editor of the Richmond *Examiner* asking for copies of the Baltimore *Sun*. Another indicated that Jones and his fellow agents smuggled chloroform across the river in jugs marked "Neat's-foot oil." Other correspondents expressed joy at the Confederate victory at Manassas, the expectation that "Lincoln is pretty nearly played out and that one more victory in favor of the South will knock down his house," and the hope "that the day is not far



From the Louis A. Warren
Lincoln Library and Museum

FIGURE 1. Portrait of Jones from his famous book.



*From the Louis A. Warren
Lincoln Library and Museum*

FIGURE 2. General Andrew Porter.

distant when the people of the North will condemn Abe's cruel acts and hurl him from power."

Any secret agent is, of necessity, a liar, but readers who know Jones only from his famous memoir are not able to see what an accomplished and shrewd liar he was. The records of his case make this talent abundantly clear. Jones wrote several letters asking for help in gaining his release. He noted that he had "an affectionate wife at home and eight young children all dependent upon me for protection and support." Moreover, his wife was expecting. It was time (November) for farmers to be making arrangements for the next year. He needed to go home to do that and to provide winter clothing and shoes for his family. Still in prison (he was moved to the Old Capitol Prison) in January, Jones begged for sympathy, "if not for myself for the sake of a distressed wife and nine children, one of which is a stranger to me it having been born since my imprisonment." A "father or a husband" would surely grant him "a speedy release."

The account of his family circumstances was apparently true, but the shrewd lie Jones told was that he had done only what many others in his county would have done in similar circumstances. Besides, he knew of many men from the area who had been in the Confederate service, returned to Maryland, been captured, and released on taking the oath of allegiance. His act was not as bad as theirs. The government had confiscated two of his boats, and his pecuniary loss was severe. Jones readily admitting taking people to Virginia, but he claimed that he never inquired about their business. "Where there was

a boat there was no use in saying 'no' when men from a distance came and said they wanted to go to Virginia on important business and must go. I have known in several cases where they after being positively refused took the boat and crossed the river themselves." Jones had "said already more than . . . intended and more than necessary," he said with false candor. He was suffering for the crimes of others in his county who had done more and paid less penalty. "What I did which seems to be treason to the Government I did for profit. . . . I have a large family to support, and being a poor man I thought that if I could make something by carrying a few persons across the river it would be no harm."

Jones lied. He was comfortably well off but lost his money in efforts for the Confederacy. He knew exactly what he was doing in the ferry business; he did it to help the Confederacy. By not making a phony lofty-sounding appeal, he gave his lies the ring of grubby truth born of economic necessity. His lies were artful and, it should be noted, clearly and plainly expressed—proof, incidentally, of his ability to write his later memoir without the aid of a ghost-writer.

The Department of State, battered by Maryland Congressmen looking after their constituents and perhaps a little taken in by Jones's lies, decided to let him go. This is a part of the story that Jones may not have known—a part that provides tragically eloquent tribute to the sound instincts of the Federal secret service. Provost Marshal Porter told Secretary of State William H. Seward that Jones ought not to be released. Seward ordered his release in January anyway. Porter and Allen objected vigorously, saying that Jones was a dangerous man, that Seward had received "untruthful representations" in regard to his case, and that General George B. McClellan regarded it as a military necessity that Jones be kept in custody. Allen said that Jones was part of a "dangerous nest of traitors."

In February, Edwin M. Stanton succeeded Seward as the person in charge of arrests of persons suspected of disloyalty. The same influences that wore Seward down assailed Stanton. Allen told him: "Jones is a most dangerous man to be at large even for the shortest length of time."

Six days later Jones swore his allegiance to the Union and walked out of the Old Capitol Prison. Very shortly thereafter, he became the official Confederate agent in his neighborhood.



*From the Louis A. Warren
Lincoln Library and Museum*

FIGURE 3. Doctor Samuel A. Mudd.



From the Louis A. Warren
Lincoln Library and Museum

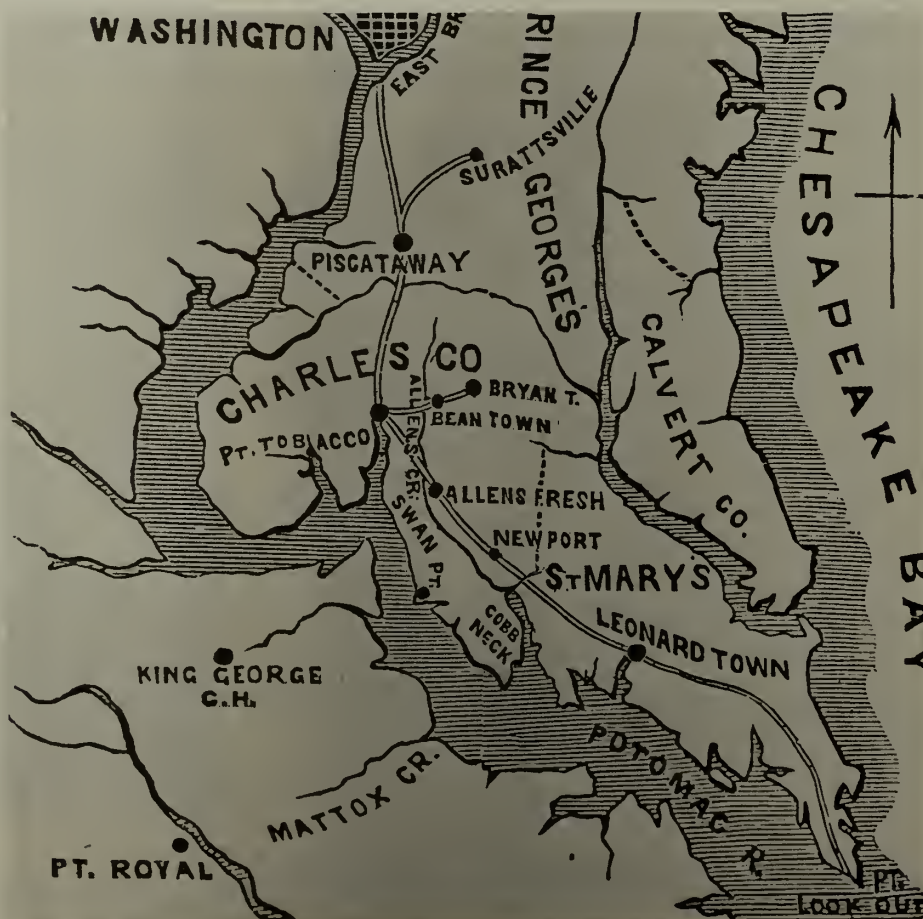
FIGURE 4. The Old Capitol Prison from John A. Marshall's *American Bastille*.

Among the curious materials in the file on Jones's case is a statement made by one George W. Smith of Bryantown, Charles County, Maryland.

The secession feeling commenced about April last, 1861. The principal leaders in the secession party and those who have aided against the Government are, first, James A. Mudd; lives about one mile from Bryantown; has been conveying men and boxes supposed to contain munitions of war from Baltimore and different counties in the State to Pope's Creek on the Potomac. The men were strangers from Baltimore and other places. Mudd paid the expenses. . . . Thomas A. Jones, of Pope's Creek, is the man who receives the men, arms and ammunition at that place and conveys them over to Virginia in his own boat and with his own negroes.

Dr. Samuel A. Mudd lived five miles from Bryantown. The arrest records in the State Department are full of gaps and errors. Many names are mistakenly recorded, especially in verbal testimony taken down, as this was, by a Federal agent. Did Smith get the first name wrong? Was he a little off in his estimate of the distance from Bryantown? Who was Smith? From whom did Jones obtain his chloroform?

History may never know. There is no other record of Smith's arrest than this statement. All that is known for certain is that he told the truth about Thomas A. Jones.



From the Louis A. Warren
Lincoln Library and Museum

FIGURE 5. Map of lower Maryland from George A. Townsend's *Life, Crime, and Capture of John Wilkes Booth*.

ing such a defense, it is not necessary that the insanity of the accused be established even by a preponderance of proof; but if, upon the whole evidence, the jury entertain a reasonable doubt of his sanity, they must acquit." Breese frankly acknowledged the error in his previous decision:

The rule here announced, differs from that laid down in *Fisher's case*, 23 Ill. 293. In that case we said, sanity being the normal condition, it must be shown by sufficient proof, that from some cause, it has ceased to be the condition of the accused. The opinion in that case, was prepared under peculiar circumstances not admitting of much deliberation, and this point was not pressed upon the attention of the court, or argued at length. Further reflection has satisfied us, it was too broadly laid down, and that justice and humanity demand, the jury should be satisfied, beyond a reasonable, well-founded doubt, of the sanity of the accused. The human mind revolts at the idea of executing a person whose guilt is not proved, a well-founded doubt of his sanity being entertained by the jury.

Chief Justice John Dean Caton filed a separate opinion, upholding the same point. "Is it any less revolting," he asked, "to an enlightened humanity to hang an innocent crazy man than one who is sane?" The "all-pervading sentiment of civilized man" demanded the "general rule in all criminal trials, that if, from the whole evidence, the jury entertain a reasonable doubt, it is their duty to acquit; and the reason is, that it is better that many guilty persons should be acquitted, than that one innocent person should be convicted."

Justice Pinkney H. Walker filed a partially dissenting opinion. "The plea of insanity," he argued, "like all other special pleas, confesses the act charged and avoids its consequences, by showing circumstances which establish a defense." It seemed logical that "the proof must devolve upon the party interposing the defense." Reasonable doubt of the defendant's sanity was not enough to cause acquittal. The rule announced in the *Fisher case*, though "not the uniform rule of the American courts," was the rule of "a large majority" of them, Walker said. It was a rule "well calculated to protect community against the perpetration of crime."

Caton and Breese represented the majority of the court, and the verdict in the *Hopps case* was reversed (*Hopps* had murdered his wife and had been found guilty).

Over a hundred years ago, Illinois law upheld the insanity defense. After an awkward start, its highest tribunal ruled that the burden of proof was on the prosecution and that a reasonable doubt of the defendant's sanity dictated an acquittal. "Sanity is guilt," said Justice Breese, "insanity is innocence; therefore, a reasonable doubt of the sanity of the accused, on the long and well-recognized principles of the common law, must acquit." Lincoln's was not a simpler era because it was an earlier era. The judges and lawyers faced the same difficulties that modern judges and lawyers do: conflicting testimony from expert medical witnesses, considerable disagreement among medical authorities who wrote on insanity, awareness that defendants could "possum" insanity, and the all-important necessity to balance the safety of the community against the sanctity of an individual's life and liberty.

Breese admitted that writers on the subject "furnish, as yet, no true and safe guide for courts and juries." Pinkney Walker knew "that there are few questions which present greater difficulties in their solution, than this of insanity. It assumes such a variety of forms, . . . that it has almost been denied, that any person is perfectly sane, on every subject." In a hotly contested case, one Justice noted, "One of the physicians, . . . states that, from complainant's evidence, he thinks it difficult to tell whether Waggoner was sane or insane. . . . The other physician gives it, as his opinion, that he was insane." Caton knew that "insanity may be simulated," but "So may any other fictitious defense be got up to screen the guilty." None of these difficulties challenged the place of the insanity defense as far as Illinois's greatest lawyers in Lincoln's era were concerned.

They were aware, of course, that they dealt with a "science"



From the Louis A. Warren
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FIGURE 3. Pinkney H. Walker.

as yet in its infancy. "To say that men by careful study and investigation," Caton argued, "can acquire no skill on this subject, while the same study and investigation will constantly develop new truths on all other subjects, would be a daring assumption upon which we cannot consent to hang a fellow man." Breese, too, upheld the insanity defense even though he knew that science as yet offered "no true and safe guide for courts and juries." He hoped that someday a rule would be established which, "whilst it shall throw around these poor unfortunates a sufficient shield, shall, at the same time, place no great interest of community in jeopardy."

That day never came — all the more reason that modern Americans should look to the past for guidance when examining the fundamental parts of their legal system.

JAMES ANTHONY MUDD

Dr. Richard Mudd, who watches out for the reputations of his ancestors, noted that the James Mudd referred to in *Lincoln Lore* Number 1721 must have been James Anthony Mudd, Dr. Samuel A. Mudd's older brother. "Jim" Mudd was born in Bryantown, Maryland, in 1829. He lived in or near Bryantown most of his life, moving to Baltimore in the 1880s. During the Civil War, he was a farmer. He was drafted, but his family paid for a substitute.

Richard Mudd's useful book, *The Mudd Family of the United States*, does not mention James Mudd's pro-Confederate activities, but the doctor assures us that he learned about them too late to include mention in the first edition of his book. "Jim" Mudd's wife, Emily, testified in Dr. Samuel A. Mudd's behalf at the trial of the alleged conspirators in Abraham Lincoln's assassination.



Department of History
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May 7, 1982

Dr. Mark E. Neely, Jr.
Louis A. Warren Lincoln Library and Museum
Lincoln National Life Insurance Company,
Fort Wayne, Indiana 46801

Dear Mark:

I have just read Robert Bruce's review of your new work, The Abraham Lincoln Encyclopedia. It was indeed a very excellent review and one with which I am indeed in full agreement. It was such a pleasure to accidentally discover your book on the shelves of the Smithsonian bookstore in Washington, D. C. last October. Enclosed is a check for \$45.00. Will you be so kind as to send me an "autographed" copy for my library.

It was a pleasure to visit with you recently by phone. I regret that I am so far away from Lincoln country and do miss the times of fellowship which I enjoyed for so very many, many years. But, little by little, I am picking up some friends here in California who are also interested in Mr. Lincoln. And I am enjoying the speaking opportunities which have been coming my way out here.

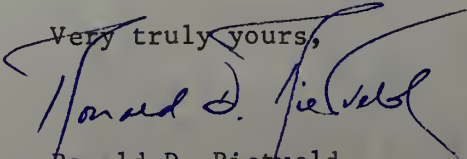
The people at the Lincoln Shrine in Redlands are a total delight! They are certainly gracious and enthusiastic. My wife, Ruth, commented on their genuine warmth and friendliness--especially to the two of us. We had had only correspondence contact with them--and a few mutual friends. But the occasion on last April 18 was one we will long remember. I heard good things of your February visit there.

I just hung up the phone after a nice visit with Mary Jane. I have known her for a good many years now and it was good to hear her voice. Keep me informed on the Lincoln scene when it seems proper. I regret not being much closer so that I could enjoy Stephen B. Oates' presentation--at least it was nice to receive the invitation.

By the way, your recent "new light" on Thomas A. Jones was of great interest. I redid the Booth escape trail last year April--twenty some years after the first time.

With my best wishes,

Very truly yours,


Ronald D. Rietveld,
Professor of History

DR. RICHARD D. MUDD
1001 HOYT AVENUE
SAGINAW, MICH. 48607

May 19, 1982 ✓

*Sent
5-25-82
G.J.*

Mr. Mark E. Neely, Jr.
The Louis A. Warren Lincoln
Library & Museum
Fort Wayne, Ind. 48601

*Send Lunch
Love # 1119 -
no cover letter
needed
on*

Dear Mark:

I hasten to give you more information about
James A. Mudd. Thanks for your letter.

In all my 26 years in Washington and my
very frequent and close contacts with my paternal
uncles and aunts and my grandmother (Dr. Samuel
A. Mudds widow), I never heard of my grandfather's
brother James A. Mudd. It was only after starting
The Mudd Family History (a copy of which you have)
that I knew of James Anthonys existence. He was
4 1/2 years older than my grandfather.

I knew of his Confederate activities and
sympathers but only long after beginning the family
history (about 1970). He lived at or near Bryantown
and Dr. Samuel A. Mudd lived 4 1/2 miles North.

George W. Smith's statement is in my book, 2d
edition (1970), P. 1572. Note too that James A.
Mudd was drafted for the Union Army but family
paid for substitute for him. (P.522). Apparently
I didnt learn of the Smith statement till about 1970.

Kindest Regards,

Richard D. Mudd

RDM:mb

Richard D. Mudd, M.D.

1366-67 mudd

- P.S. 1 - Note on ~~PS 13, 66, 67~~. 21 served in Union Army
and 21 in Confederate Army and one served in
both Union and Confederate Armies.
- 2 - I suppose you saw the article by John Ventura
in the ~~Winter~~ 81 Lincoln Herald. When I was
in London 5 years ago he arranged for me to give two
talks on the Lincoln Assassination and I found
the groups intensely interested. He was our guide
on a tour of London.
- 3 - Please send me photocopy of 1st page of your
1119 - DTD 9-11-1950.

RDM



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MARK E. NEELY, JR.
Director

May 24, 1982

Telephone (219) 424-5421

Dr. Ronald D. Rietveld
California State University, Fullerton
Department of History
Box 4150
Fullerton, California 92634

Dear Professor Rietveld:

Many thanks for your generous letter and for your check. The book has been sent under separate cover.

The Jones article, as I supposed it would, brought a quick response from Richard Mudd, who pointed out (what I should have known but didn't) that James Mudd was Samuel's brother and lived nearby. He was so happy to exonerate Samuel thereby that I think he overlooked the real import of this: the solidest evidence we have ever had that Mudd's brother was in very deep with very disloyal elements in southern Maryland.

Best regards

Mark E. Neely, Jr.

Mark E. Neely, Jr.

MEN/vpg

